

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

JAMES SEABA and CORY PHILLIPS,

Plaintiffs,

vs.

Civ. No. 02-103 LH/RHS

MESOSYSTEMS TECHNOLOGY, INC.,

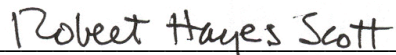
Defendant.

ORDER GRANTING IN PART AND DENYING IN PART
PLAINTIFFS' MOTION TO COMPEL DEFENDANT'S DISCOVERY RESPONSES

THIS MATTER having come before the Court on Plaintiffs' Motion to Compel Defendant's Discovery Responses [docket no. 85] and it appearing to the Court that Plaintiffs' requests for production seek documents that arguably contain confidential, sensitive and/or proprietary information, the disclosure of which is not necessarily objected to by Defendant with the substantive objection being the appropriate method to protect and keep confidential the information being discovered. The Court has now considered the pleadings on file in the above captioned cause, the arguments and authorities propounded by the respective parties and concludes that while the information being sought is discoverable, it is fair and appropriate that an attorney's eyes only protective order be entered given the competitive relationship between the parties in this lawsuit.

IT IS THEREFORE ORDERED that Plaintiffs' Motion to Compel Defendant's Discovery Responses [docket no. 85] is hereby GRANTED IN PART and DENIED IN PART as follows:

1. On or before July 31, 2003, Defendant Mesosystems Technology, Inc., shall produce the materials responsive to James Seaba's request for production no. 2; Cory Phillips' request for production nos. 7, 22, and 23; and James Seaba's second request for production nos. 2, 4 and 6.
2. The production of this material shall be governed by and subject to a protective order bearing "attorney's eyes only" designation. In the event the parties cannot draft such a order, the Court reserves jurisdiction to enter its own form of order at a future date as may be appropriate.
3. In its response to the subject motion, Defendant captions its responsive pleading in part as a Motion for Protective Order. The Court has not considered this motion separate and apart from Plaintiffs' Motion to Compel and if Defendant Mesosystems Technology, Inc., desires to bring a separate motion for protective order it should do so by the appropriate pleading.



ROBERT HAYES SCOTT
UNITED STATES MAGISTRATE JUDGE